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5 Attorneys for Plaintiff,
6 SUN-MATE CORPORATION

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 CV11 01906 MMM PJWx

13 SUN-MATE CORPORATION, a
14 California corporation

15 Plaintiff,

16 vs.

17 OFFICE DEPOT, INC., a Delaware
18 corporation; DOES I - X, Inclusive,

19 Defendants.

20 CASE NO.

21 COMPLAINT FOR PATENT
22 INFRINGEMENT

23 JURY TRIAL DEMANDED

24

25 Comes now the plaintiff, SUN-MATE CORPORATION, and for causes of
26 action against defendants, and each of them,, complains and alleges as follows:

27

28

MAP-SUN-2805

11 MAR - 4 PM 3:30
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

FILED

JURISDICTION

2 1. This action arises under the patent laws of the United States, Title 35,
3 United States Code. This Court has jurisdiction over this claim under Title 35,
4 United States Code and 28 U.S.C. §1338(a).

PARTIES

6 2. Plaintiff, SUN-MATE CORPORATION, is a corporation organized
7 and doing business under the laws of the State of California having its principal
8 place of business in Chatsworth, California (hereinafter referred to as "Sun-
9 Mate").

10 3. Sun-Mate is informed and alleges that OFFICE DEPOT, INC., is a
11 Delaware corporation, having its principal place of business in Boca Raton,
12 Florida and does business throughout the United States in general and in the
13 Central District of California in particular (hereinafter referred to as "Office
14 Depot").

15 4. The true names or capacities, whether individual, corporate, associate,
16 representative, or otherwise, of the defendants named herein as DOES I - X,
17 inclusive, are unknown to plaintiff who therefore, pursuant to Local Rule 19-1 of
18 this Court, sues said defendants by such fictitious names and plaintiff will amend
19 this Complaint to show their true names and capacities when the same have been
20 ascertained.

CLAIM FOR INFRINGEMENT OF
U.S. DESIGN PATENT NO. D-465,133

3 5. Sun-Mate repeats and incorporates Paragraphs 1 - 4, inclusive, of this
4 Complaint as though set forth in full herein again.

5 6. On November 5, 2002, United States Letters Design Patent No. D-
6 465,133 were duly and legally issued to Sun-Mate for a design in the portable
7 cooler, and since that date, Sun-Mate has been and still is the owner of those
8 Design Letters Patent, a copy thereof being attached hereto as Exhibit 1 (herein-
9 after referred to as the "133 patent").

10 7 . On May 7, 2010, plaintiff initiated an action for infringement of the
11 '133 patent against Office Depot, Inc. and Tic Toc, the imagination Company, the
12 case being identified by this Court as CV10-3433-R(FFMx). On or about June 1,
13 2010 Case No. CV10-3433-R(FFMx) was settled and releases granted to all
14 parties, including Office Depot with respect to all infringing products imported
15 into the United States prior to June 1, 2010. Based on the settlement, on June 14,
16 2010, a Notice of Dismissal of Case No. CV10-3433-R(FFMx) was filed with the
17 Court.

18 8. Sun-Mate is informed and believes and, based upon such information
19 and belief, alleges that Office Depot had full knowledge of the limitations of the
20 settlement of Case No. CV10-3433-R(FFMx).

21 9. Defendant, Office Depot, has been and is infringing the '133 patent
22 by purchasing portable coolers embodying the design of the '133 patent from Does
23 I - X, inclusive, and reselling same to the public in the United States, and will
24 continue to do so unless enjoined by this Court, a representative sample of an
25 Office Depot advertisement offering the infringing product for sale being attached
26 hereto as Exhibit 2.

1 10. Sun-Mate has placed the required statutory notice on all portable
2 coolers manufactured and sold by it under the '133 patent and has given written
3 notice to each of the defendants of its infringement.

4 11. The infringement of the '133 patent by Office Depot has caused and
5 will cause Sun-Mate irreparable harm for which there is no adequate remedy at
6 law.

7 12. That Sun-Mate is informed and believes and, based upon such
8 information and belief, alleges that defendants have earned profits for their
9 infringing activities; that Sun-Mate has suffered damages as a result of the defen-
10 dants' acts, the amount of the profits earned by the defendants and the extent of
11 the damages to Sun-Mate by reason of the infringement of the '133 patent by
12 defendants is presently unknown to Sun-Mate; that plaintiff shall request leave to
13 amend its Complaint when the precise amount of damages is known.

14 **WHEREFORE**, Sun-Mate prays for judgment against defendant as
15 follows:

16 A. That defendant, Office Depot, its agents, servants, employees,
17 assigns, attorneys, representatives, successors in business, confederates and those
18 persons in active concert or participation with it be enjoined during the pendency
19 of this action and permanently from making, using or selling any goods which
20 infringe United States Letters Patent No. D-465,133;

21 B. Award damages requiring defendant, Office Depot, to account to and
22 pay to Sun-Mate all damages caused by reason of defendants' infringement of
23 United States Letters Patent No. D-465,133, including either defendant's total
24 profits pursuant to 35 U.S.C. §289, or other compensation pursuant to 35 U.S.C.
25 §284, including enhanced damages under 35 U.S.C. §284;

26 C. Enter judgment pursuant to 35 U.S.C. §285 making this case excep-
27 tional and awarding plaintiff its attorneys' fees, costs and expenses.

28

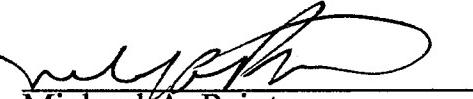
1 D. Award such other and further relief as the Court may deem just and
2 proper.

3 **PLAINTIFF DEMAND A JURY TRIAL OF THIS MATTER.**

4 Respectfully submitted,

5 ISAACMAN, KAUFMAN & PAINTER

6 By:


7 Michael A. Painter
8 Attorneys for Plaintiff

9 Dated: 3/4/2011

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EXHIBIT 1

US00D465133S

(12) **United States Design Patent** (10) Patent No.: US D465,133 S
Ben-Moshe (45) Date of Patent: ** Nov. 5, 2002

(54) PORTABLE COOLER

4,346,562 A * 8/1982 Beitner 62/3.62

(75) Inventor: Rami Ben-Moshe, Canoga Park, CA
(US)

4,346,562	A	*	8/1982	Beitner	62/3.62
4,379,391	A	*	4/1983	Rhee	62/408
5,319,937	A	*	6/1994	Costello	62/3.62

* cited by examiner

(73) Assignee: **Sun-Mate Corporation, Canoga Park,
CA (US)**

Primary Examiner—Terry A. Wallace

(74) Attorney, Agent, or Firm—Michael A. Painter

(**) Term: 14 Years

CLAIM

(21) Appl. No.: 29/143,140

The ornamental design for a portable cooler, as shown and described.

(22) Filed: Jun. 13, 2001

DESCRIPTION

(51) LOC (7) Cl. 07-01

(52) U.S. Cl. D7/605

(58) **Field of Search** D7/605-607; D15/81;
62/457.1, 457.7, 457.9, 371, 372, 3.62,
426, 455; 220/915.1, 915.2, 592.2, 592.24,
592.25

(56) **References Cited**

U.S. PATENT DOCUMENTS

3,069,869 A * 12/1962 Mueller 62/371

FIG. 1 is a front perspective view of a portable cooler illustrating my new design:

FIG. 2 is a front elevation view thereof;

FIG. 3 is a right side elevation view thereof;

FIG. 4 is a left side elevation view thereof;

FIG. 5 is a rear elevation view thereof;

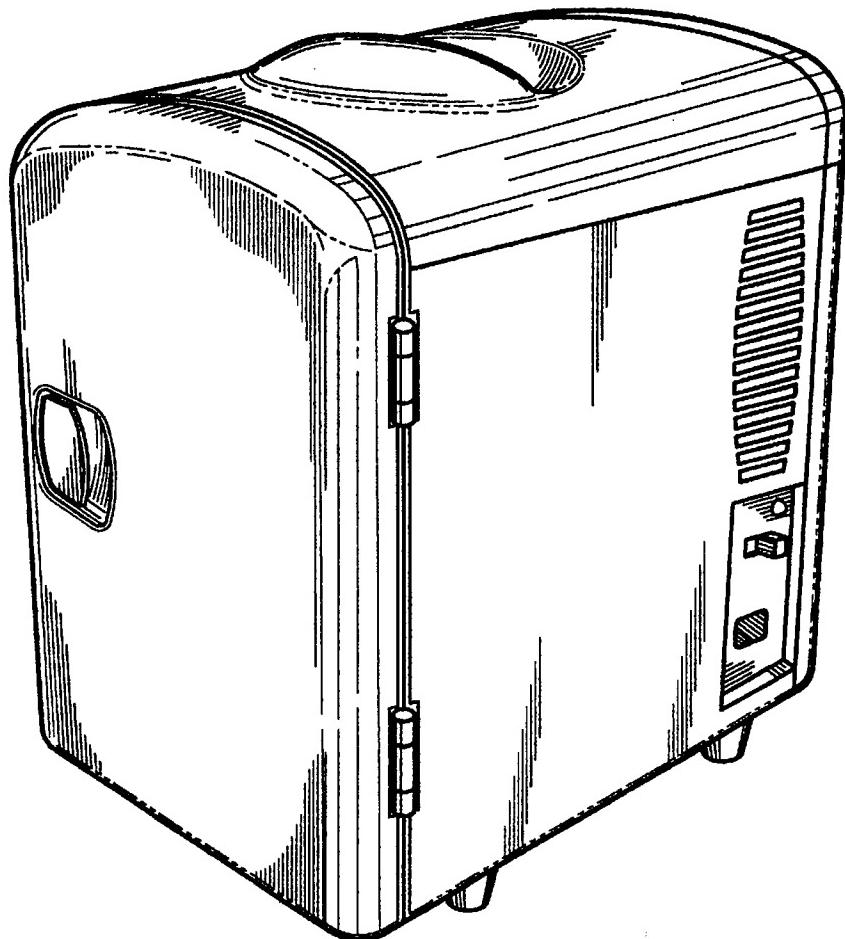
FIG. 6 is a top plan view thereof; and,

FIG. 6 is a top plan view thereof, and,

FIG. 7 is a bottom plan view thereof.

FIG. 7 is a bottom plan view thereof.

1 Claim, 3 Drawing Sheets



U.S. Patent

Nov. 5, 2002

Sheet 1 of 3

US D465,133 S

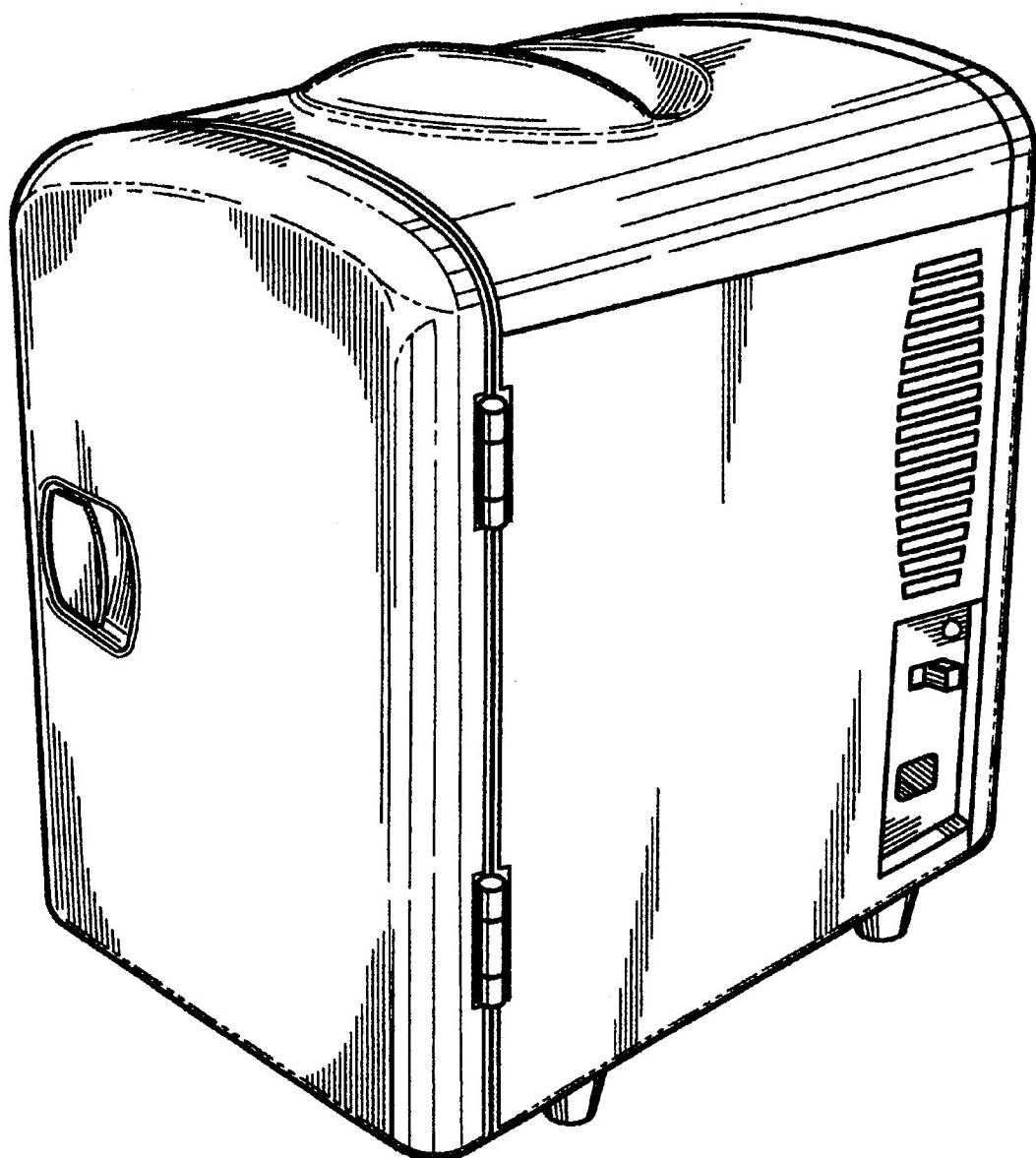


Fig. 1

U.S. Patent

Nov. 5, 2002

Sheet 2 of 3

US D465,133 S

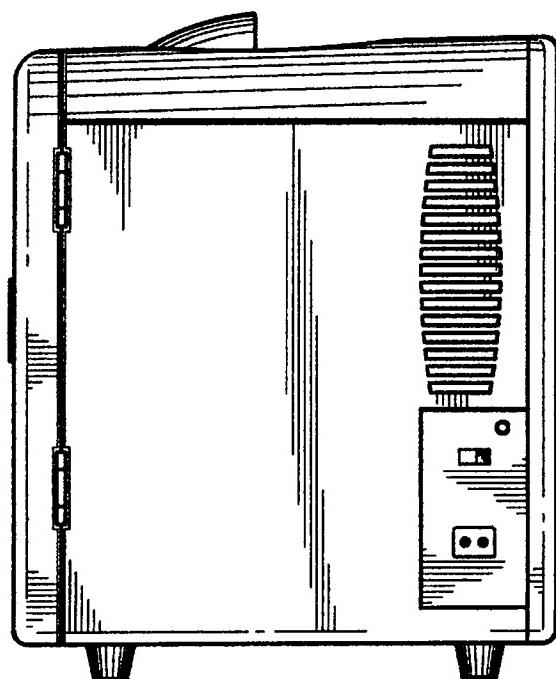


Fig. 3

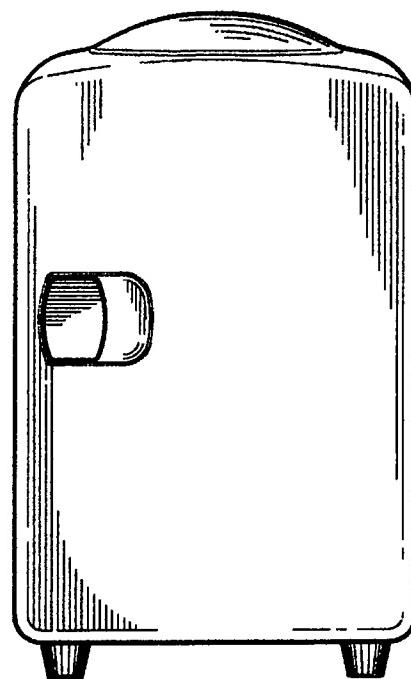


Fig. 2

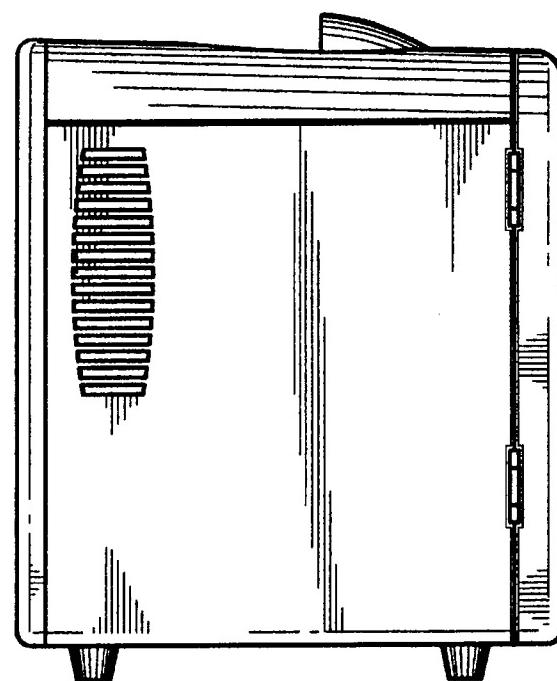


Fig. 4

U.S. Patent

Nov. 5, 2002

Sheet 3 of 3

US D465,133 S

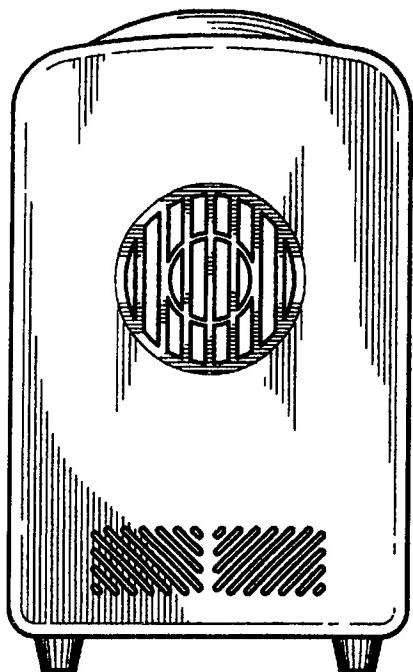


Fig. 5

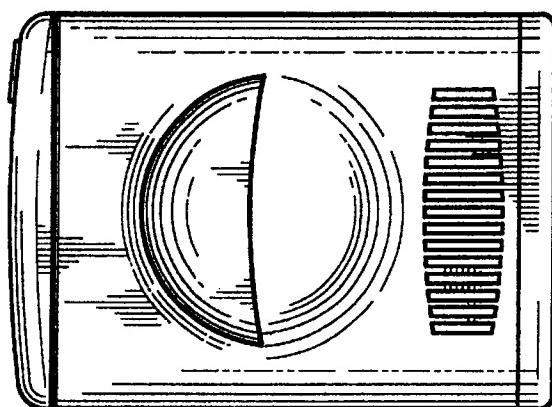


Fig. 6

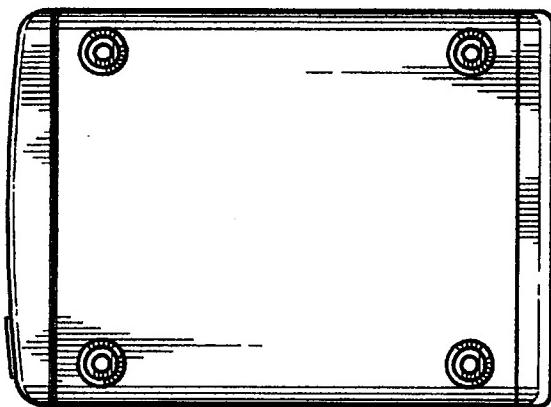
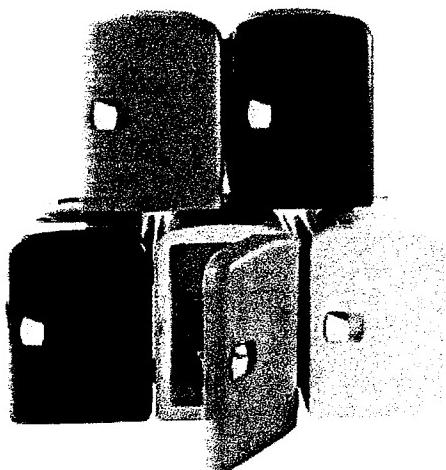


Fig. 7

EXHIBIT 2



0.14 Cu. Ft. Mini Refrigerator, Assorted Colors

Item # 299106

Switchable between cold and warm

Keep drinks cool and fresh.

Refrigerates down to 25° C below the ambient temperature.

Keep-warm function up to 65° C with fixed point thermostat.

[Learn More](#)

[Delivery only](#) Your Price

\$29.99

/ each

Protect your investment for just pennies a dayFrom day one, if your covered product fails - we repair or replace it

[Best Value 2-Year Product Replacement Plan With 24/7 Tech Support](#)

\$5.99

[Decline Protection](#)

1.6 out of 5

Like 16 people like this. Be the first of your friends.

DESCRIPTION

Switchable between cold and warm

- Keep drinks cool and fresh. Cools 6 drink cans of 0.33 liters each.
- Refrigerates down to 25° C below the ambient temperature.
- Keep-warm function up to 65° C with fixed point thermostat.
- Can be used as a portable cooler/warmer — great for road trips, camping and tailgating.
- Useful volume 4 liters.
- Trouble-free operation with 12 volts DC.
- Low empty weight.

PRODUCT DETAILS

Item #	299106
Manufacturer #	MINIFRDGE
color	Black; Blue; Orange; Red; White
material	ABS
cubic foot capacity	0.14 cubic feet
warranty length	180-day limited
temperature control	yes
height	11 inches
width	7 3/10 inches
depth	10 inches
CFC free	yes
automatic defrost	no
flat-back design	no
total number of shelves	0
ice cube tray included	no
model name	YT-A-400B
UL listed	yes
distributor	Swinton Avenue Trading Ltd., Inc.
postconsumer recycled content	0 %
total recycled content	0 %

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[Click on the Pros and Cons to filter reviews](#)

Pros

- (1)
- (1)
- (1)

Cons

- (1)
- (1)
- (1)
- (1)
- (1)

Click on the Pros and Cons above to filter reviews

Product Reviews

[Choose a sort order](#)

January 4, 2011

aka1908

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1 out of 5

PIECE OF JUNK

I ordered this think it was for th shop or something, but it is for the car. Who using a refrigerator the size of this in the car? it only holds three can coke come one!!

Quality



1 out of 5

4 of 6 people found this review helpful.

Meets Expectations



1 out of 5

Was this review helpful to you? Yes No
(Report Inappropriate Review)

Share this Review:

September 29, 2010

CustomOrganizer

San Francisco, CA

[Read all my reviews](#)



1 out of 5

If I had known it was for the car...

Cons: car use only

If I had known it was for the car... I would have used a different coupon. I threw this in our dumpster two days after receiving it.

Quality



1 out of 5

7 of 18 people found this review helpful.

Meets Expectations



1 out of 5

Was this review helpful to you? Yes No
(Report Inappropriate Review)

Share this Review:

I am a(n): Professional

Primary Use: Business User

Gender: Female

Age: 26 - 35

Bought this product: Online

September 28, 2010

vivster

Oklahoma City

[Read all my reviews](#)



5 out of 5

Mini Refrigerator

If you have Diabetes and have to keep your insulin cool, this might be just the answer. Also works for chocolate or any drink if you are thirsty after going to the gym or after practice. My dog gets dehydrated on trips and needs a cool drink so he won't get car sick.

We have been very pleased with this fridge and have found several uses for it. I will be purchasing the a/c power supply. I had another one previously and learned that if you cool it before you leave for your destination, it maintains the coolness very well.

Quality



4 out of 5

Meets Expectations



4 out of 5

I am a(n): Professional

Primary Use: Pleasure

5 of 5 people found this review helpful.

Gender: Female
 Age: 46 - 65
 Bought this product: Online

Was this review helpful to you? Yes No
 (Report Inappropriate Review)

Share this Review: [Facebook](#) [Twitter](#) [Email](#)

Top 1000 Contributor

July 28, 2010
Manager86351
 Sedona, AZ
 Read all my reviews

2 out of 5

Quality 3 out of 5

Meets Expectations 2 out of 5

I am a(n): Traditional Office
Primary Use: Pleasure
Gender: Female
Age: 26 - 35
Bought this product: Online

Not worth the price

Pros: did keep items from melting., compact and light weight

Cons: did not keep things cold, add a con

I thought this would be a great travel companion for long road trips but in the end it was just another thing in the car. I plugged it in when I started the road trip and after about 2 hours it cooled off the soda cans I had in it and kept them at a little over room temperature for the duration of the trip.

It was great to have for items that melt or just need a little cooling but otherwise it will not keep things super cold.

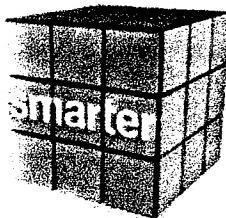
18 of 18 people found this review helpful.

Was this review helpful to you? Yes No
 (Report Inappropriate Review)

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